UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

In re:	)	
	)	
RODNEY TRIPP,	)	Case No. 16-13966-BFK
	)	Chapter 7
Debtor.	)	

ORDER DENYING MOTION TO RECONSIDER

This matter is before the Court on Valoit, LLC's (Valoit) Motion to Reconsider Pursuant To Rule 9023 and Motion To Amend Pursuant Rule 9024. Docket No. 38. The Debtor has filed an Opposition. Docket No. 42. At the hearing on February 14, 2017, counsel for the Debtor appeared. No counsel appeared on behalf of Valoit, but instead a representative of Valoit, Mr. Pankaj Varshney, appeared. On February 27, 2017, the Court entered an Order Granting the Debtor's Motion for Sanctions against Valoit for violating the automatic stay. Docket No. 21. The Order instructed the Debtor to file an application for attorney's fees within 10 days of entry of the Order, which the Debtor filed on March 3, 2017. Docket No. 23. Any opposition was due within 10 days of the Debtor's Application. Mr. Varshney filed two Responses in Opposition to the Debtor's Application despite the Court's warning that he could not represent Valoit because he was not a member of the bar of this Court and that he was not an attorney. Docket No. 31 and 33. On March 22, 2017, the Court awarded the Debtor's fees in the amount requested after finding them to be reasonable. Docket No. 34. For the reasons state below, the Court will deny the Motion to Reconsider.

Bankruptcy Rule 9023 incorporates Rule 59 of the Federal Rules of Civil Procedure. Under Rule 59(e), the courts have recognized three grounds for amending a judgment: "(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." *Hutchinson v. Staton*, 994 F.2d 1076, 1081 (4th Cir. 1993); *Thompson v. Shaia*, Civil Action No. 3:10-CV-919, 2011 WL 3820761, at *3 (E.D. Va. Aug. 29, 2011). For a Rule 59(e) motion, it is not appropriate to ask the Court to reconsider what was already argued and rejected, nor to request the Court to consider a legal argument that could have been made prior to the Court's ruling but was not. *Pac. Ins. Co. v. Am. Nat'l Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998) (stating that Rule 59 motions "may not be used, however, to raise arguments which could have been raised prior to the issuance of the judgment, nor may they be used to argue a case under a novel legal theory that the party had the ability to address in the first instance").

Bankruptcy Rule 9024 incorporates Rule 60 of the Federal Rules of Civil Procedure. A Rule 60(b) Motion, like a Rule 59 Motion, is "not authorized when it is nothing more than a request for the district court to change its mind." *Myers v. Simpson*, 831 F. Supp. 2d 945, 956 (E.D. Va. 2011). A motion for reconsideration is not an opportunity for a litigant "to present a better and more compelling argument than was originally presented." *In re Greene*, 2013 WL 1724924, at *2 (Bankr. E.D. Va. Apr. 22, 2013) (quoting *Madison River Mgmt. Co. v. Bus. Mgmt. Software Corp.*, 402 F.Supp.2d 617, 619 (M.D.N.C. 2005)).

This Court previously instructed Mr. Varshney that cannot represent Valoit in this Court. Mr. Varshney is not a member of the Bar of this Court. He is not a member of the Virginia State Bar. Valoit is a limited liability company. At the hearing on February 14, 2017, the Court expressly warned Mr. Varshney that he cannot represent Valoit. Mr. Varshney was also warned in a previous case as well. *In re Jones*, 15-10408-BFK, Docket No. 20. The Court permitted Valoit to file a response through counsel within 10 days of entry of the Order from the filing of the Debtor's Application for Attorney's Fees, which the Court entered on February 27, 2017.

Docket No. 21. Valoit did not file a response to the Debtor's Application for Compensation through counsel. Instead, Mr. Varshney proceeded to file two responses in direct contravention of the Court's instruction. Docket Nos. 31 and 33. Valoit now seeks a second bite at the apple after failing to comply with the Court's February 27th Order in its Motion to Reconsider. Further, the Motion to Reconsider does not present an argument for clear error or a manifest injustice. It will be denied.

It is therefore **ORDERED**:

1. The Motion to Reconsider is denied.

2. The Court will amend its Order Allowing Legal Fees and Strike Response and Amended Response (Docket No. 34) to reflect the correct pleadings (Docket No. 31 and 33) that should be stricken.

3. The Clerk will mail copies of this Order, or will provide cm-ecf notice of its entry, to the parties below.

Date: Apr 14 2017

Alexandria, Virginia

/s/ Brian F. Kenney

Brian F. Kenney
United States Bankruptcy Judge

eod 4/14/2017

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